



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (NAIROBI LAW COURTS)**  
**Bankruptcy Cause 5 of 1989**

**Wandiema ..... APPLICANT**

**VERSUS**

**Barclays Bank of Kenya Ltd ..... RESPONDENT**

**RULING**

Two and a half years ago the Applicant filed an application which was to be heard on 14.12.89. He failed to turn up and the application was dismissed. He has now applied to have it set aside on the grounds that he was ill at the time from swollen legs and stomach and continued to suffer from the same ailment for two subsequent years. This is his reason for having done nothing till now. For the Respondent it has been submitted by Mr Gachuhi, learned counsel for the respondent, that the delay is inordinate and the application unmeritorious. I think that this is so and as submitted by Mr Gachuhi that the applicant's present application had been prompted by the letter of the Official Receiver dated 25.5.92 to the effect that the Receiving Order made against the Applicant would be advertised. This seems to me the only reason why the present application has been brought. The applicant does not deny that he was unaware of the order made on 14.12.84 in respect of which sick or not, he should and could have taken steps to have it set aside if he so wished. He has been content to go to sleep and has now woken up to step the threatened advertisement. The Applicant has finally asked for an adjournment to obtain the services of an Advocate, but this application he only made in the cause of his submission in reply. This is another delaying tactic and refuse his belated request.

Furthermore, his grounds in support of his application are quite clear. All in all, I think the application of the Applicant dated 11.6.92 should be dismissed with costs.

It is so ordered.

June 16, 1992

Akiwumi, J